

WALLA WALLA COUNTY
WATER CONSERVANCY BOARD
Application for Change/Transfer
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF
THE STATE OF WASHINGTON

Report of Examination

NOTE TO APPLICANT: Pursuant to WAC 173-153-130(8), the applicant is not permitted to proceed to act on the proposal until Ecology makes a final decision affirming, in whole or in part, the board's recommendation. It is advised that the applicant not proceed until the appeal period of Ecology's decision is complete.

NOTE TO AUTHOR: Read the instructions for completing a water conservancy board report of examination. Use the F11 key to move through the form.

☐ Surface Water ☒ Ground Water

DATE APPLICATION RECEIVED March 7, 2011	WATER RIGHT DOCUMENT NUMBER GW Cert. No. 3686	WATER RIGHT PRIORITY DATE October 22, 1947	BOARD-ASSIGNED CHANGE APPLICATION NUMBER WALL-12-04
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NAME KREGGER RANCHES, INC. c/o Chris Kregger			
ADDRESS (STREET) 17232 Stateline Road	(CITY) Touchet	(STATE) Washington	(ZIP CODE) 99360

Changes Proposed: ☐ Change purpose ☐ Add purpose ☐ Add irrigated acres ☐ Change point of diversion/withdrawal
☐ Add point of diversion/withdrawal ☒ Change place of use ☐ Other (Temporary, Trust, Interties, etc.)

SEPA

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND 1.06	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 209	TYPE OF USE, PERIOD OF USE 1.06 cubic feet per second from June 1 to July 1; 0.80 cubic feet per second from July 1 to October 1, 209 acre-feet per year, for the seasonal irrigation of 80 acres.				
SOURCE Walla Walla River			TRIBUTARY OF (IF SURFACE WATER) Columbia River				
AT A POINT LOCATED: PARCEL NO. 330606410004	¼	¼ SE	SECTION 6	TOWNSHIP N. 6	RANGE 33 E.	WRIA 32	COUNTY. Walla Walla
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED The S½ NW¼SE¼, the SW¼SE¼ and the SE¼SE¼, ALL WITHIN Sec. 6, T. 6 N., R. 33 E.W.M., Walla Walla County, State of Washington.							
PARCEL NO. 330606410004	¼	¼ SE	SECTION 6	TOWNSHIP N. 6	RANGE, 33 E.		

Proposed Use

MAXIMUM CUB FT/ SECOND 1.06	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 209	TYPE OF USE, PERIOD OF USE 1.06 cubic feet per second from June 1 to July 1, and 0.80 cubic feet per second from July 1 to October 1, 209 acre-feet per year, for the seasonal irrigation of 80 acres.				
SOURCE Walla Walla River			TRIBUTARY OF (IF SURFACE WATER) Columbia River				
AT A POINT LOCATED: PARCEL NO. 330606410004	¼	¼ SE	SECTION 6	TOWNSHIP N. 6	RANGE 33 E.	WRIA 32	COUNTY. Walla Walla
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED That portion of the SE¼ of Section 6, T. 6 N., R. 33 E.W.M., lying southerly of the Walla Walla River, Walla Walla County, State of Washington.							
PARCEL NO. Various	¼	¼ S½	SECTION 6	TOWNSHIP N. 6	RANGE, 33 E.		

Board's Decision on the Application

MAXIMUM CUB FT/ SECOND 1.06		MAXIMUM GAL/MINUTE		MAXIMUM ACRE-FT/YR 209		TYPE OF USE, PERIOD OF USE 1.06 cubic feet per second from June 1 to July 1; 0.80 cubic feet per second from July 1 to October 1, 209 acre-feet per year, for the seasonal irrigation of 80 acres.	
SOURCE Walla Walla River				TRIBUTARY OF (IF SURFACE WATER) Columbia River			
AT A POINT LOCATED: PARCEL NO. 330606410004		¼ NW	¼ SE	SECTION 6	TOWNSHIP N. 6	RANGE 33 E.	WRIA 32
COUNTY. Walla Walla							
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD That portion of the SE¼ of Section 6, T. 6 N., R. 33 E.W.M., lying southerly of the Walla Walla River, Walla Walla County, State of Washington.							
PARCEL NO. Various		¼	¼ S½	SECTION 6	TOWNSHIP N. 6	RANGE 33 E.	

DESCRIPTION OF PROPOSED WORKS

75 HP pump, mainline, ½ center pivot (126 acres).

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: Started	COMPLETE PROJECT BY THIS DATE: Completed	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: March 1, 2015
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REPORT

BACKGROUND

On March 7, 2012, Kregger Ranches, Inc. of Touchet, Washington filed an application for change to change the place of use of 80 acres of water right under Ground Water Certificate No. 3686 (Cert. No. 3686). The application was accepted at an open public meeting on March 7, 2012, and the board assigned application number WALL-12-04.

Attributes of the water right as currently documented

Name on certificate, claim, permit:	Remie De Ruwe
Water right document number:	Ground Water Certificate No. 3686
As modified by certificate of change number:	N/A
Priority date, first use:	October 22, 1947
Water quantities:	Qi: 1.06 cfs 6/1 – 7/1; 0.80 cfs 7/1 – 10/1 Qa: 209 acre ft./ year
Source:	Walla Walla River
Point of diversion/withdrawal:	SE¼ of Sec. 6, T. 6 N., R. 33 E.W.M.
Purpose of use:	Seasonal irrigation of 80 acres
Period of use:	June 1 to October 1, each year
Place of use:	

The S½NW¼SE¼; the SW¼SE¼; and the SE¼SE¼ of Sec. 6, T. 6 N., R. 33 E.W.M.

Existing provisions:

“This land has Class “B” water as classified by Walla Walla Irrigation Company under Decreed Right No. 19075, Certificate No. 4-406, and the supply is cut off between June 1 and October 1.”

“This application is for supplemental water from the Walla Walla River to cover that portion of the irrigation season when water is not available from the District.”

“The Department of Fisheries and Game request applicant’s diversion intake be tightly screened with a mesh not coarser than six to the inch.”

Tentative determination of the water right

The tentative determination is provided on the front page of this report.

History of water use

The subject water right, Cert. No. 3686, was first put to use in 1950. This surface water right is used in conjunction with several other water rights to irrigate the subject lands.

The currently authorized point of diversion has been in use since Cert. No. 3686 first issued, and will continue to be used through this change. The place of use is proposed to be adjusted so that it will accommodate the east half of a 126 acre half center pivot. This pivot is proposed to cover the majority of lands that are currently irrigated under Cert. No. 3686, as well as adjacent lands to the west which will also be irrigated under authority of separate water rights.

The subject lands have been irrigated more or less continuously since Cert. No. 3686 first issued. Cropping records obtained from the United States Department of Agriculture Farm Service Agency (FSA) show a variety of crops grown rotationally within the authorized place of use, including alfalfa hay, peas and grains.

Previous changes

There have been no previous changes perfected on this water right.

SEPA

The board has reviewed the proposed project in its entirety. The board has reviewed the proposed project in its entirety. A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- It is a surface water right application for more than 1 cubic feet per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;

- It is a groundwater right application for more than 2,250 gallons per minute;
- It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions it is categorically exempt from SEPA and a threshold determination is not required.

Statutory Requirements/Authorities for Proposed Change

The following is a list of pertinent Washington State Statute and Case Law requirements that must be considered prior to authorizing the proposed change in place of use and point of withdrawal:

RCW 90.03.380(1) states, in part, that a water right which has been put to beneficial use may be changed. The point of diversion and/or place of use of a right may be changed without losing the priority of said right provided that the change does not cause injury or detriment to existing rights.

The Washington Supreme Court has held that when processing an application for change to a water right, a tentative determination of extent and validity of the claim or right is required. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions.

COMMENT AND PROTESTS

Public notice of the application was given in the Waitsburg Times on June 14th and June 21st, 2012. Protest period ended on July 22nd, 2012.

There were no protests received during the 30 day protest period. In addition, no oral and written comments were received at an open public meeting of the board or other means as designated by the board.

Other

N/A

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions.

INVESTIGATION

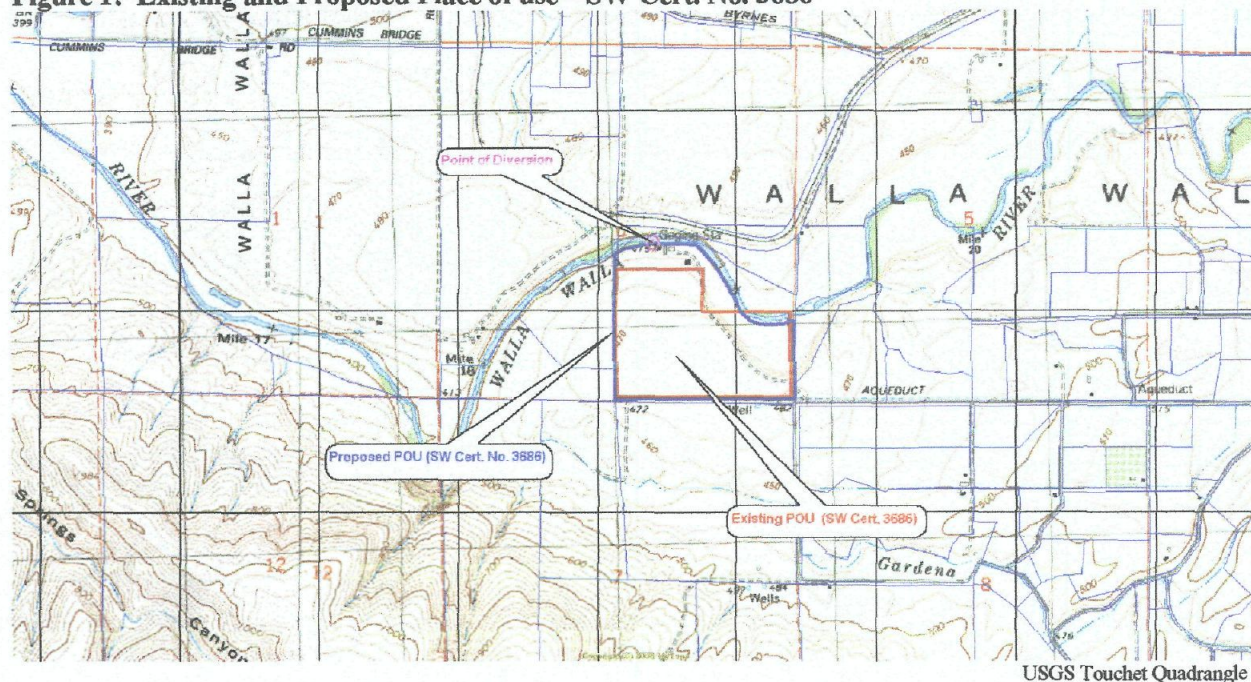
The following information was obtained from a site inspection conducted by Mike Dobbins on 8/1/12, and review of a variety of data and technical reports. The following are some of the primary sources of information obtained and utilized in the investigation:

- Water right files for Cert. 3686
- Farm Service Agency (FSA) cropping records
- Technical reports
- U.S. Geological Survey topographic maps
- Aerial photos
- Department of Ecology's Water Right Tracking System (WRTS) database/Water Resource Explorer website
- Review of applicable laws, site visits, rules and policies
- Conversations with the applicant/farmers and/or other interested parties

Proposed project plans and specifications

The proposed change in place of use to Cert. No. 3686 will not substantially move the authorized place of use; the proposal is to change the area authorized for irrigation to include adjacent lands and remove those acres from the place of use that will no longer be irrigated to conform with the intended irrigation practices.

The intent of this change application is to adjust the authorized place of use for Cert. No. 3686 to cover lands situated in the SE¼ of Sec. 6 south of the Walla Walla River. The lands irrigated in this adjusted place of use will include one-half of a 126 acre pivot. This property already irrigated under rights which include Cert. No. 3686. The other half, which currently does not have any appurtenant surface water rights, will be irrigated by means of the Kregger 32.5 acre share of Surface Water Cert. No. 1200 and a 13.5 acre share of Surface Water Cert. No. 2849. There are currently not enough acres of water right to irrigate the full 126 acres, so a stop will be placed on the pivot to leave approximately 17 of the 126 acres not irrigated by these surface water rights. Concurrent change applications to Surface Water Cert. Nos. 2849 (13.5 acres) and 1200 (32.5 acres) are pending for change in place of use to cover 109 of the 126 acres covered by the pivot. Changes in place of use and points of withdrawal to Ground Water Permit No. G3-28507 have recently been approved to cover these same acres.

Figure 1: Existing and Proposed Place of use – SW Cert. No. 3686**Other water rights appurtenant to the property (if applicable)**

There are several water rights which are proposed to include the same place of use as that proposed herein. It should be noted that there are concurrent change applications pending for each of these rights (excepting WW Adj. Cert. No. 406) to change the place of use to include the same lands as those proposed herein as the new place of use. The primary attributes of these rights are as follows:

Walla Walla River Adjudication Certificate No. 406 (Gardena Farms Irr. Dist. No. 13)

Priority Date: 1892 (Class 30)
Source: Walla Walla River
Quantities: 93.3 cubic feet per second from 4/1 – 7/1;
 70.0 cubic feet per second from 7/1 – 10/1;
 140 cubic feet per second from 10/1 – 4/1, when allowed
Purpose of use: Irrigation of 7000 acres
Diversion point: SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 5, T. 6 N., R. 35 E.W.M.

Walla Walla River Adj. Cert. No. 406 is controlled by Gardena Farms Irrigation District No. 13. The acres authorized for irrigation and annual quantities of water allocated to this property can and do vary over time, and water may be restricted to these lands on a seasonal basis as well. Any changes in allocation/place of use of water delivered to the applicant by the District through this right are a matter handled internally by the District.

Surface Water Certificate No. 1200

Priority Date: August 12, 1937
Source: Walla Walla River
Quantities: 0.73 cubic feet per second from April 1 to July 1
 0.55 cubic feet per second from July 1 to October 1
 0.1.10 cubic feet per second from October 1 to April 1
Purpose of use: Irrigation of 55 acres¹
Diversion point: SW $\frac{1}{4}$ of Sec. 5, T. 6 N., R. 33 E.W.M.

¹ This right is divided such that 32.5 acres convey to Kregger Ranches and 22.5 acres to a separate landowner, Mike Buckley.

Surface Water Certificate No. 2849

Priority Date: October 22, 1947
Source: Walla Walla River
Quantities: 0.47 cubic feet per second from April 1 to July 1
 0.35 cubic feet per second from July 1 to October 1
 0.70 cubic feet per second from October 1 to July 1
Purpose of use: Irrigation of 35 acres¹
Diversion point: (1). SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 5; (2). N $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 6, both within T. 6 N., R. 33 E.W.M.

¹ This right is divided such that 13.5 acres convey to Kregger Ranches and 21.5 acres to a separate landowner, Mike Buckley.

The 32.5 acre Kregger share of Cert. No. 1200, together with the 13.5 acre Kregger share of Cert. No. 2849, have concurrent change applications pending that would, together with approval of this application, authorize the change in place of use to cover 109 acres of the 126 acre proposed $\frac{1}{2}$ pivot.

Ground Water Permit No. G3-28507P

Priority Date: August 15, 1988
Source: Three wells (gravel aquifer)
Quantities: 2100 gpm, 1395 acre-feet per year
Season of Use: January 1 to December 31 for irrigation; continuously for domestic supply
Purpose of use: Irrigation of 300 acres, single domestic supply
Withdrawal point: (1) NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 7, T. 6 N., R. 33 E. W.M.
(2) NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 6, T. 6 N., R. 33 E. W.M.
(3) SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 6, T. 6 N., R. 33 E. W.M.

Ground Water Permit No. G3-28507P was recently approved for a change to allow the drilling of two additional wells to allow for the permit to be more fully developed. The authorized place of use for Permit No. G3-28507P includes the proposed place of use under this change application, and one of the wells authorized for use under Permit No. G3-28507P is also located within the proposed place of use. This Permit provides an additive supply of water to the above described surface water rights, to the extent of 4.65 acre-feet per acre.

Cumulative Water Rights for the Proposed Place of Use

The water rights which are proposed to be utilized to irrigate the 126 acres pivot at the new place of use include the following:

SW Cert. No. 1200:	32.5 acres
SW Cert. No. 2849:	13.5 acres
SW Cert. No. 3686:	63 acres
Total	109 acres

Additionally, Ground Water Permit No. G3-28507P and Gardena Farms Irrigation District (90 acres) authorize irrigation of lands within the proposed place of use. Those acres authorized for irrigation under Cert. No. 3686 (17) and not irrigated by the pivot will be irrigated by other means (handline/tri-matic).

Public Interest (groundwater only)

The proposed change in place of use, relating to a surface water right, is not subject to RCW 90.44.100 and therefore is not legally required to be evaluated in terms of whether or not the change will be detrimental to the public interest, including impacts on any watershed planning activities. While such an evaluation is not legally required for this application, public interest considerations are an important aspect of the use of surface water in this basin. An analysis of public interest considerations is provided for advisory purposes, below.

- a. *Comments/Protests:* No comments or protests were received regarding potential approval of the proposed change.
- b. *Walla Walla County Municipal Code (Codified as Ordinance 369, November 10, 2008):* The proposed place of use for the subject water right is located within the Primary Agriculture – 40 acre-minimum lot size zoning district. As the changes proposed herein would not change the existing agricultural use of the subject lands, it is consistent with the Walla Walla County Code.
- c. *WRIA 32 Watershed Plan:* The proposed changes are consistent with the locally developed and approved basin watershed plan, which expressed a desire that new water rights or changes to existing water rights not negatively impact streams, springs, or wells hydraulically connected to surface waters sources within WRIA 32. When used conjunctively with other existing rights appurtenant to the proposed place of use, approval of this application should actually serve to improve instream flows in the Walla Walla River through improved irrigation application efficiencies and resulting reduced diversions of surface water.

Tentative Determination

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report. There are several circumstances that can cause the board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use. Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment. The Board's tentative determination was based upon the following findings:

A 75 HP centrifugal surface water pump is used to service the subject 80 acres through Cert. No. 3686, and is also used to supply water to other lands covered by separate surface water rights. Calculating quantities of water, both instantaneous rate and annual duty, based on pumping records at the source are therefore not particularly relevant in this case. Farms Service Agency (FSA) records and the State of Washington Irrigation Guide are used here as primary references to estimate historic water use.

Cert. No. 3686 authorizes the diversion of 1.06 cubic feet per second from June 1 to July 1 and 0.80 cubic feet per second from July 1 to October 1, 209 acre-feet per year, for the irrigation of 80 acres. For purposes of this tentative determination, each component of water use will be evaluated separately.

Figure 2: Aerial View of Existing and Proposed Place of Use – SW Cert. No. 3686



Instantaneous Quantity (Qi):

The diversion facilities associated with Cert. No. 3686 utilizes a newly installed 75 HP centrifugal pump, which has the capacity to pump the full maximum instantaneous quantity allowed, which is 1.06 cubic feet per second, or 476 gallons per minute. As stated previously, this pump is used to supply water to other lands under separate water rights as well. The applicant has historically pumped water from the Walla Walla River at rates exceeding 1200 gpm to service the 80 acres under Cert. No. 3686 in addition to other lands under authority of separate rights. The season of use for this right runs June 1 to October 1, which is generally when water supplied to these same lands from Gardena Farms Irrigation District No. 13 is unavailable. The full maximum instantaneous quantity – 1.06 cubic feet per second - authorized for use under Cert. No. 3686 is valid and available for consideration of the proposed change in place of use under this application.

Acres:

A review of Farm Service Agency (FSA) records was conducted to determine the extent of acres actually irrigated under this water right (see Table 1, below). This information was compared with aerial photos to confirm the FSA data (Figure 2, above). The records show that up to 87.7 acres have been irrigated within the place of use of Cert. No. 3686 through a combination of existing surface water rights, which include the 80 acres authorized under SW Cert. No. 3686. The intent of this application is to adjust the place of use such that all the existing surface water rights on the existing place of use will be shifted to the proposed place of use. So while more than 80 acres have been irrigated within the place of use of Cert. No. 3686, these acres are being irrigated under authority of other water rights to which there are concurrent change applications pending that would shift the place of use of these rights to the same lands as those proposed as the new place of use herein. It is concluded that the 80 acres authorized for irrigation under Cert. No. 3686 have historically been irrigated, and are available for consideration under the proposed change.

Annual Quantity (Qa)

For purposes of determining the historic annual water use, crop irrigation requirements from the State of Washington Irrigation Guide (WIG) and crop type/acreage data obtained from the Walla Walla FSA office were utilized to estimate annual water use on the subject 80 acres. The WIG data is based on conditions more representative of the eastern portion of the basin, which is in a higher rainfall zone (~15 inches vs. ~9 inches, annually) and where the crop irrigation requirements are generally lower. However, this is currently the most representative data set available for estimating crop irrigation requirements in the Touchet area. The monthly requirements for the period of June 1 to October 1 were obtained to match the irrigation season authorized under Cert. No. 3686. The results are summarized in Table 1, below.

Table 1: Crop Type, Acres, and Total Irrigation Requirement Estimates - Cert. No. 3686

Year	Crop Type ¹	Acres ¹	CIR ² (inches)	Application Eff. ³ (%)	TIR ⁴ (ac/ft per acre)	TIR (ac/ft for 80.0 acres)
2012	Peas	87.7	9.75	70	1.16	92.80
2011	Wheat (W)	87.7	8.44	70	1.00	80.00
2010	Alfalfa	87.7	28.44	70	3.39	271.2
2009	Alfalfa	80.6	28.44	70	3.39	271.2
2008	Alfalfa	78.7	28.44	70	3.39	271.2
2007	Alfalfa	78.7	28.44	70	3.39	271.2

¹ From Farm Service Agency records

² Crop Irrigation Requirements from June 1 – October 1 for selected crops in the Walla Walla Valley – State of Washington Irrigation Guide

³ From Ecology Guidance 1210 – *Determining Irrigation Efficiency and Consumptive Use*, Table 1. Irrigation methods used: Handline and Tri-Matic.

⁴ Total Irrigation Requirement – (CIR x Irr. Eff.)/12 = acre-feet requirement

The maximum instantaneous allocations under Cert. No. 3686, pumped continuously over the season of use (June 1 – Oct. 1) will yield an annual quantity of 209 acre-feet per year. Based on the information provided in Table1, the water requirement for alfalfa equates to 271.2 acre-feet from June 1 to October 1. As stated previously, there are other water rights which are used to irrigate the subject acres in addition to Cert. No. 3686, including Gardena Farms Irrigation District deliveries and SW Cert. No. 2849. The full annual quantity allocated, being 209 acre-feet, has been used to irrigate the subject acres and is available for consideration under this application.

The total quantities of water determined to have been historically put to beneficial use under Cert. No. 3686, and available for consideration for under this application, are 1.06 cubic feet per second from June 1 to July 1 and 0.80 cubic feet per second from July 1 to October 1, 209 acre-feet per year, for the irrigation of 80 acres.

Geologic, Hydrogeologic, or other scientific investigations (if applicable)

This application would change the place of use to an existing water right to include lands adjacent to the existing place of use. The proposed change will not result the diversion of water being changed from its current location, and the discharge of any return flows resulting from the exercise of this right will not impact any reach of the river (or any other stream) any differently than it does now, other than the return flows may be distributed a bit farther downstream on the mainstem Walla Walla River than they are currently. No additional hydraulic analysis/investigation is necessary to evaluate the proposed change.

Statutory Requirements

Applications for change to surface water certificates are governed by RCW 90.03.380 and court interpretations thereof, which hold in part that: the right to the use of water may be transferred to another and become appurtenant to any other land or place of use, and the point of diversion of water may be changed, provided that:

- The change must not cause detriment or injury to existing rights;
- A valid right/claim exists that is eligible to be changed;
- The change shall not allow for the enhancement of the right perfected under the original certificate

No Detriment/Impairment to Existing Rights:

“Impair” or “impairment” means to: 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200), and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

The proposed place of use involves lands that area already part of the existing place of use as well as property adjacent to that existing place of use. The quantities of water beneficially used and acres irrigated will not be increased beyond what has been tentatively determined to be valid through an extent and validity analysis. The overall water use to irrigate the 126 acres to be covered by this center pivot may actually reduce the overall use of water under Cert. No. 3686 and associated water rights due to the increased application efficiencies to be realized through use of the pivot vs. the less efficient methods currently employed. There will be no detriment to existing water rights through approval of the proposed change.

No Enhancement of the Original Right:

A tentative determination has been conducted to determine the extent and validity of Cert. No. 3686. The proposed change would not allow for appropriation beyond those quantities and irrigated acres determined to have been put to historic beneficial use.

A Valid Right Exists that is Eligible to be Changed:

A tentative determination of the extent and validity of Cert. No. 3686 was completed by evaluating water use under the right from 2007 to 2012. The results of the analysis determined that the following quantities are valid and available for the requested changes: 1.06 cubic feet per second from June 1 to July 1 and 0.80 cubic feet per second from July 1 to October 1, 209 acre-feet per year, for the irrigation of 80 acres. There was no evidence, either from available data or from 20+ years of this writer’s personal experience of working with water in the basin, to suggest that there have been 5 consecutive years of non-use of any of the above quantities of water during any time from 1967 to 2012.

Same Source of Water:

The source of water for this right is, and will remain, the Walla Walla River.

Other

N/A

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions.

CONCLUSIONS

Tentative determination (validity and extent of the right)

The results of a tentative determination of the water right show that the following quantities are valid and available for the requested changes: 1.06 cubic feet per second from June 1 to July 1 and 0.80 cubic feet per second from July 1 to October 1, 209 acre-feet per year, for the irrigation of 80 acres.

Relinquishment or abandonment concerns

Washington State statute (RCW 90.14.160) provides that:

“Any person entitled to divert or withdraw waters of the state through any appropriation authorized by enactments of the legislature prior to enactment of chapter 117, Laws of 1917, or by custom, or by general adjudication, who abandons the same, or who voluntarily fails, without sufficient cause, to beneficially use all or any part of said right to divert or withdraw for any period of five successive years after July 1, 1967, shall relinquish such right or portion thereof, and said right or portion thereof shall revert to the state, and the waters affected by said right shall become available for appropriation in accordance with RCW [90.03.250](#).”

A comparison between those quantities determined to have been put to historic beneficial use and those quantities issued on the certificate show that the full instantaneous and annual quantities have been put to historic beneficial use, and the full number of acres authorized for irrigation under Cert. No. 3686, being 80 acres, have been irrigated. As the full instantaneous and annual quantities of water and the number of acres irrigated authorized for use have been beneficially used, no portion of Cert. No. 3686 is currently subject to relinquishment.

Hydraulic analysis

The proposed change in place of use through this application will not change the location of where the water is diverted, nor will it result in any increase in quantities of water pumped, either on an instantaneous or annual basis. The only potential hydraulic change is that some portion of potential return flows could enter the Walla Walla River at points somewhat downstream of where they currently do, through the application of water on lands adjacent to, and downstream of, the existing place of use.

Consideration of comments and protests

Public notice of the application was given in the Waitsburg Times on June 14th and June 21st, 2012. Protest period ended on July 22nd, 2012. There were no protests received during the 30 day protest period. In addition, no oral and/or written comments were received at an open public meeting of the board or other means as designated by the board.

Impairment

There is no evidence that the proposed change in place of use will impair any existing rights, including instream flows established through WAC 173-532.

Public Interest

A determination as to whether the change is detrimental to the public interest only applies to groundwater changes pursuant to RCW 90.44.100, so is not formally considered herein.

Other

The board also considered the previous provisions associated with the water right as identified in the background section of this report when making its decision.

DECISION

Applications for change to surface water right certificates are governed by RCW 90.03.380 which state in part that: the holder of a valid surface water right may, without losing priority of right, change the point of diversion and transfer or change the place of use of a water right, provided that:

- The change must not cause detriment or injury to existing rights;
- A valid right/claim exists that is eligible to be changed;
- The change shall not allow for the enhancement of the right perfected under the original certificate

It is the conclusion of the Walla Walla County Water Conservancy Board that, in accordance with RCW 90.03.380, (1) the proposed change in place of use will not impair existing rights, including instream flows established through WAC 173-532; (2) a valid right exists and is eligible to be changed to the extent the right has been put to historic beneficial use, as summarized above; and (3) that the proposed change will not expand or enhance the right which was perfected under the original certificate. The requested change in place of use to Surface Water Certificate No. 3686 is approved, subject to the provisions and conditions listed below.

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions and members of the Walla Walla County Water Conservancy Board.

PROVISIONS

Conditions and limitations

This authorization changes the place of use and points of diversion as provided by RCW 90.03.380, and when perfected will supersede Surface Water Certificate No. 3686.

All conditions and requirements contained in reports of examination, permits or superseding certificates previously issued apply to this authorization unless specifically noted below.

Measurements, Monitoring, Metering and Reporting

1. An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. This rule describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".
<http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
2. Water use data shall be recorded monthly. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to Ecology by January 31st of each calendar year.
3. Reported water use data shall be submitted via the Internet or by using the enclosed forms. To set up an Internet reporting account, access <https://fortress.wa.gov/ecy/wrx/wrx/Meteringx/>. If you have questions or need additional forms, contact the Eastern Regional Office.
4. A future Superseding Certificate for Surface Water Certificate Nos. 3686 will not be issued until evidence of meter installation has been submitted to the Department of Ecology.

Department of Fish and Wildlife

5. No dam or weir shall be constructed in connection with this diversion.
6. The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria.
<http://www.wdfw.wa.gov/rcg/regions.htm>

Quantity Limits, Flow and Regulation

7. This change does not authorize an enlargement of those quantities in cubic feet per second, acre-feet per year, or total irrigated acres as described under Surface Water Certificate No. 3686.

Schedule and Inspections

8. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.
9. The water right holder shall file the notice of Proof of Appropriation of water (under which the superseding certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The superseding certificate will reflect the extent of the project perfected within the limitations of the change authorization. Elements of the proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

General Conditions

10. You are advised that the issuance of this change does not convey a right of access to, or other right to use land, which you do not legally possess. Obtainment of such a right is a private matter between the applicant and the owner of the land.
11. Use of water under this authorization shall be contingent upon the water right holder's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.
12. Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances or regulations.
13. The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop(s) grown on the number of acres and the place of use specified.

Mitigation (if applicable)

No mitigation was proposed, or determined to be necessary, for approval of the proposed change.

Construction Schedule

The irrigation infrastructure is largely in place for SW Cert. No. 3686. A two-year development schedule to put the water to full beneficial use should be sufficient. Water is to be put to Full Beneficial Use by March 1, 2015.

Other

N/A

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The undersigned board commissioner certifies that he/she understands the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this report and concurs with the report's conclusions.

Signed at Walla Walla, Washington

This 2nd day of October, 2013

Alan Kottwitz, Board Representative
Walla Walla County Water Conservancy Board

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

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